

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARTHUR TORLUCCI,
Petitioner,

No. C 08-04775 SBA (PR)

ORDER OF TRANSFER

v.

M. S. EVANS, Warden,
Respondent.

Petitioner, a state prisoner, has filed a pro se petition for a writ of habeas corpus.

Federal statute allows "the Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2241(a). A federal petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a State court is properly filed in either the district of confinement or the district of conviction. Id. § 2241(d). Where a case is filed in the wrong venue, the district court has the discretion to transfer it to the proper federal court "in the interest of justice." See 28 U.S.C. § 1406(a).

Here, Petitioner challenges a conviction and sentence incurred in Los Angeles County Superior Court, which is in the venue of the Western Division of the Central District of California. See 28 U.S.C. § 84. Accordingly, that is the proper venue for this action.

Pursuant to 28 U.S.C. § 1406(a) and Habeas L.R. 2254-3(b), and in the interest of justice, the Clerk of the Court is ordered to TRANSFER this action forthwith to the United States District Court for the Western Division of the Central District of California.

IT IS SO ORDERED.

DATED: 10/22/08


SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
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6 ARTHUR TORLUCCI,
7 Plaintiff,

Case Number: CV08-04775 SBA

CERTIFICATE OF SERVICE

8 v.

9 MS EVANS et al,

10 Defendant.
11 _____/

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
Northern District of California.

13 That on October 23, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
15 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
in the Clerk's office.

16
17 Arthur Torlucci K-33910
18 Salinas Valley State Prison
19 P.O. Box 1050
Soledad, CA 93960-1050

20 Dated: October 23, 2008

21 Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk
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